

## REMARKS

### **I. Status of the Claims**

Claims 1-30 are pending in the application, and claims 1-12, 23 and 28 stand withdrawn pursuant to a restriction requirement. Claims 13-22, 24-27, 29 and 30 have been examined and stand rejected, variously, under 35 U.S.C. §§101, 102 and 112 (first and second paragraphs). The specific grounds for rejection, and applicants' response thereto, are set out in detail below.

Claim 15 is canceled, and claims 13, 17, 20 and 29 are amended. Support for amendments relating to "stringent conditions" to each of claims 13, 20 and 29 can be found at page 4, lines 14-17 of the specification. Support for enhanced or reduced flavonoid content can be found at page 11, lines 21-22 and page 12, lines 1-2 of the specification.

### **II. Advisory Action**

In an Advisory Action, the examiner refused to enter the previously provided amendments as requiring new search, raising new issues and not substantially reducing issues on appeal. With regard to the first two points, applicants believe these to be directed to the amendment to claim 15, which has been canceled in the present submission. In addition, claims 13 and 29 have been amended to recite that the plants provided have the phenotype of enhanced or reduced flavonoid content, and claim 20 has been amended to recite that the nucleic acid fragment has the activity of enhancing or reducing formation of flavonoids, thereby addressing the examiner's remarks in the Advisory Action.

### **III. Claim Objection**

Claim 13 is objected to in the spelling of “homolog.” An amendment is provided to claim 13, and claim 26 as well, thereby addressing the objection.

### **IV. Rejections Under 35 U.S.C. §112**

#### **A. First Paragraph**

Claim 15 is rejected as lacking written description and including new matter for the recitation inserted in the previous amendment. Applicants traverse, but have canceled the claim.

Claims 13-18, 20, 22, 25-27, 29 and 30 stand rejected as allegedly lacking an adequate written description under §112, first paragraph. The examiner has maintained the rejection on the grounds that the hybridization conditions recited are said to be “less” than the example provided in the specification. Applicants traverse, but in the interest of advancing the prosecution, the claims either have been canceled or have been amended to recite specific stringent hybridization conditions. Reconsideration and withdrawal of both the foregoing rejections is respectfully requested.

#### **B. Second Paragraph**

Claims 13, 14, 16-18, 20, 22, 25-27, 29 and 30 are rejected as allegedly indefinite in the recitation of “stringent conditions.” Applicants traverse, but as discussed above, the claims either have been canceled or have been amended to recite specific stringent conditions. Reconsideration and withdrawal of the rejection is respectfully requested.

**V. Rejections Under 35 U.S.C. §102**

Claims 13-18, 20-22, 24-27, 29 and 30 remain rejected under §102(b) as allegedly anticipated by the '501 application. Applicants again traverse.

It is well known in the art that TT1 and TTG1 have distinct functions. Applicants direct the examiner to Haughn & Chaudhury, *Trends Plant Sci.* 10:472-477 (2005) (attached). The article shows that TT1 and TTG act in different regulatory pathways (see in particular p. 474, left col., last para. and right col. with Fig. 3). Their different functions are reflected by the fact that the comparison of TT1 and TTG1 amino acid sequences showed a *0% match!* This was noted in the previous response, and applicants now demonstrate by the attached comparison of coding sequences of TT1 and TTG1 (performed by DNA Strider 1.4f2 software) that there also is no substantial homology which would allow any fragment of TTG1 to hybridize to SEQ ID NO:2 or 4 (TT1) under the specified conditions. As such, the claims contain a recitation that is not met by the reference, and the subject matter of the present claims is cannot anticipated by the '501 application. Reconsideration and withdrawal of the rejection is therefore respectfully requested.

**VI. Conclusion**

In light of the foregoing, applicants submit that all claims are in condition for allowance, and an early notification to that effect is earnestly solicited. Should the examiner have any questions or comments regarding this application, a telephone call to the undersigned is invited.

Respectfully submitted,



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